Report of the Ad Hoc Committee on Housing

REPORT

OF

THE AD HOC COMMITTEE ON HOUSING

FOR

THE COMMITTEE ON PLANNING AND COMMUNITY SERVICES

FEBRUARY 20, 1989

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SUMMARY OF RECOMMENDATIONS

1. *The City should not only continue but strengthen its commitment to housing programs and the revitalization of older City neighbourhoods and that a reorganizational study of the Department of Environmental Planning be conducted and that such a study should include but not be limited to:*

   - *The feasibility of establishing a separate Housing and Community Programs Department, utilizing the staff of the Community Programs Division of the Department of Environmental Planning, with a Director who will be responsible for reporting to the Committee on Planning and Community Services, with its own budget included each year as part of the City's current and capital estimates in order that such a department would not always be dependent on cost-shared funding programs for its existence.*

   And that a Committee of Council be appointed to select the Consultant and define the terms of Reference for the reorganizational study.

2. *That the following revisions to Section 639 and 639.1 of the City of Winnipeg Act which have been approved by the Law Department be submitted by Council to the Province as part of the City's response to changes pertaining to the Act. The proposed changes to the following existing legislation are underlined.*

   SOCIAL DEVELOPMENT

   639 THE COUNCIL MAY

   (a) establish programs for the rehabilitation, improvement or renewal of urban areas, and may define the parts of the city to be affected by such programmes;

   (b) enter into agreements with the government or any agency of the government for the planning and implementation of rehabilitation or improvement programmes; and

   (c) take measures to secure improvement in social conditions with a view to the prevention and alleviation of poverty, illness and crime and without restricting the generality of the foregoing may provide for human development programmes, for mental health and social services and for the development and operation of day care nurseries.

   NEIGHBOURHOOD IMPROVEMENT AREAS ESTABLISHED

   639(1) Subject to the other provisions of this Part, where council is of the opinion that living conditions in any area within a community should be improved due to the age, dilapidation, overcrowding, arrangement or unsuitability of certain buildings located therein, or for any other reason, it may

   (a) designate that area as a neighbourhood improvement area;

(b) provide for the election of a resident advisory council to recommend the works to be undertaken in the neighbourhood improvement area; and

(c) establish an action area plan relating to the neighbourhood improvement area.

CONTENTS OF ACTION AREA PLAN

639.1(2) In addition to the other requirements of this Part, an action area plan relating to a neighbourhood improvement area may make provision for

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(f) the establishment of an advisory service to advise and assist owners in carrying out the required rehabilitation of their dwellings or business premises in the area; (moved from S.639.1 (b))

(g) the establishment and implementation of a housing program for the area including housing restoration, construction, non-profit and cooperative housing;

(h) the establishment and implementation of a social development program for the area;

(i) the encouragement of economic development within the area;

(j) programs of inspections to ensure compliance with by-laws of the city and to enforce such by-laws; in order to concentrate under a single umbrella, the myriad of resources required to meet the needs of neighbourhoods in situations of decline.

3. That an Urban Capital Agreement for Community Revitalization be drawn up between the City and the Province and that a five year Capital Program be established for cost sharing by both levels of government and that the said program be reviewed on an annual basis.

4. That the Community Programs Division undertake neighbourhood maintenance efforts, with limited budgets, in areas which have already received neighbourhood improvement programming in order to protect the City's investments through an ongoing maintenance program.

5. That an Inter-Departmental Committee on Neighbourhood Improvement be formed comprising representatives from;

- Environmental Planning Department
- Social Services Department
- Health Department
- Parks and Recreation Department
- Police Department
- Operations Department

6. That the program components of Neighbourhood Improvement be redefined to include business improvement and community service efforts. And that a review of the Province's Business Improvement Zone Legislation be undertaken with a view to applying the legislation to applicable areas in Winnipeg.

7. That the Community Programs Division of the Department of Environmental Planning be entrusted to promote a national and international municipal dialogue on housing and community revitalization programs with a view to exchanging ideas with other cities; establishing political/administration linkages; and lobbying senior governments for changes to existing programs or the development new programs to meet defined gaps.

8. That the Community Programs Division of the Department of Environmental Planning report quarterly to the Committee on Planning and Community Services on its activities and those of the interdepartmental committee on Neighbourhood Improvement.

9. That the City enter into discussions with Landlord and Tenant Affairs to resolve the issue of redirecting rent and to propose possible amendments to the Landlord and Tenant Act.

10. The Committee recommends that despite the inherent problems related to enforcing such a regulation, that the City of Winnipeg Act be amended to prohibit landlords from renting a unit, which has outstanding orders, if the unit becomes vacant.

11. That the Core Area Residential Upgrading and Maintenance Program (CARUMP) be continued on a long term basis and that the City's Official delegation should discuss ongoing CARUMP funding with the Province of Manitoba as an essential component of housing stock maintenance.

12. That the City investigate the development and operation of a Housing Clinic along the lines of the Baltimore or Pittsburgh model with a view to establishing the same in the City of Winnipeg.

13. A more formalized liaison be created between the Community Programs Division and Winnipeg Housing Rehabilitation Corporation (WHRC) and that this should include representation from the Community Programs Division on the Board of WHRC.

14. The City of Winnipeg should demonstrate its commitment to improving housing conditions in older neighbourhoods by disposing of its own stock of one and two family dwellings through the process of selling them to WHRC at a price that makes it economically viable for WHRC and to rehabilitate them and sell them back to the public at Market prices.

15. The Province and the city should address the question of undeveloped Provincially and City owned land within the inner city, particularly for the private development of low-cost housing for which the supply is limited and that a land disposal policy be developed whereby the land subsidy is transferred to the new owners.

16. The Provincial Infill Housing Program should be continued with special emphasis in Community Revitalization Areas.

17. The Province and the City should continue to support non-profit and co-op groups by assisting with subsidies to meet the differential between allowable maximum unit costs for land and actual cost for cleared land.

18. *The City and the Province provide financial and technical support to non-profit groups that are providing housing for native families and individuals.*

19. *A By-law be enacted which provides for the control of demolition of good residential properties by owners wishing to rezone residential lands, the rezoning of which may harm the residential character of the neighbourhood.*

20. *A separate Housing Court be established by the Provincial Government, with a proper courtroom atmosphere, to hear and deal with housing related matters. This court must be given statutory recognition and permanent status by making it a part of the municipal court system.*

21. *The Attorney General be requested to replace the current practice of providing a rotation of junior prosecutors, by providing a permanent fully experienced prosecutor and a permanent judge to the Housing Court. This will result in a hastening of the judicial process related to housing matters.*

22. *The Attorney General be requested to provide a court reporter for the Housing Court.*

23. *AMEND SUBSECTION 448(1) TO PROVIDE AS FOLLOWS*

Unsanitary buildings or terraces.

448 (1) *If the health officer, upon due examination, is satisfied that a building, terrace, or land does not comply with the provisions of the Public Health Act or the regulations passed thereunder, or any by-law of the city, he may issue a notice addressed to the owner of the premises or terrace or the agent or person in charge thereof*

(a) *requiring the premises or terrace to be put into a condition that will comply with that Act and the regulations thereunder, or the by-law, to the satisfaction of the health officer; or*

(b) *if the premises or terrace are unsanitary or out of repair to such a degree as to be unfit for human habitation, requiring the premises or terrace to be put into a condition that will comply with that Act and the regulations thereunder to the satisfaction of the health officer, or requiring the occupants to vacate the premises or terrace within such time as the health officer may deem reasonable.*

24. *SUBSECTION 448 (9) SHOULD BE REPEALED AND THE FOLLOWING SUBSTITUTED:*

448 (9) *A notice issued under subsection (1) or (7) may be personally served upon the owner of the building, terrace or land, or the agent or person in charge thereof, or may be sent by registered mail to the last known address of such person as shown on the latest revised assessment roll of the City or be the records of the land titles office.*

448 (10) *Where the health officer is unable to effect service of a notice issued under subsection (1) or (7), he may cause the notice to be affixed in a conspicuous place on the building, terrace or land and the affixing of such notice shall be deemed to be sufficient service of the notice upon the owner of the building, terrace or land, or the agent or person in charge thereof.*

448 (11) *The health officer may register a notice issued under subsection (1) or (7) in the land titles office together with a form approved by the District registrar containing the legal description of the land upon which the building or terrace is located, or of the land affected, and upon such registration the district registrar shall make an entry of the registration in the abstract of title under their old system or on the title under the new system, as the case may require.*

448 (12) *Any person acquiring any subsequent interest in land affected by a registration made under subsection (11) shall be deemed to have been served with the notice on the day on which the notice was registered and any subsequent transfer of the land shall be subject to such registration.*

448 (13) *Where a notice registered under subsection (11) has been complied with to the satisfaction of the health officer, the health officer shall forthwith register in the land titles office a certificate which shall operate as a discharge of the notice.*

SUBSECTION 448 (10) SHOULD BE RENUMBERED AS SUBSECTION 448 (14)

25. *Amend paragraph 19(d) of the Public Health Act by changing the word "unoccupied" to "occupied".*

26. *Amend the General Penalty section 39(1) of the Public Health Act to increase the maximum penalties to become $5,000.00 for an individual and $50,000.00 for a corporation.*

27. *Amend the Public Health Act to confer jurisdiction upon the Court to issue Bench Orders requiring compliance. This could be a new section numbered 39(1.1) and should read as follows -*

> *"A judge or magistrate imposing a penalty under this section may, in addition to imposing a penalty, order the convicted person to comply with the relevant provision, order or direction."*

28. *The City of Winnipeg Health Department Inspections have its jurisdiction extended to the City at large, retain its existing mandate, programs, and frequency of inspections and take over all such inspection activity in the suburbs currently within the jurisdiction of the Province of Manitoba, Department of Environment, Workplace Safety and Health, Environmental Control Services and Inspection Services.*

29. *In order to function more efficiently the City of Winnipeg Health Department receive the necessary resources to acquire all necessary equipment to implement, within the Inspections Branch the Hand Held Computerized Inspection Program and Automated Record System for application city wide.*

TERMS OF REFERENCE

The Committee on Planning and Community Services on August 24, 1987, struck the Ad Hoc Committee on Housing and appointed Councillors E. Gilroy and M. O'Shaughnessy to that Committee to review the suggestions made by Councillor Wachniak as well as any other matters relating to housing which it deemed relevant.

The Committee referred the following suggestions presented by Councillor Wachniak to the Ad Hoc Committee:

1. That in instances where a landlord has been issued an Order for a rental property and that landlord is delinquent in improving his/her property, that the Social Services Department withhold rent by forwarding same to the Rentalsman who will be requested to hold these monies until repairs have been carried out and in the event these repairs are not carried out, the Rentalsman would be authorized to contract out the work and pay for same from rental money.

2. That where a tenant moves out of a house for which there is an outstanding Order, no new tenants will be allowed to move in until such time as the Order is complied with and all work has been completed.

3. That appropriate legislation be enacted if necessary, to make liable for criminal prosecution, those tenants who vandalize property.

4. That a home ownership incentive program be implemented to assist those persons who wish to become property owners in the Mynarski Ward and who purportedly encounter difficulty obtaining mortgage monies from financial institutions for homes in this particular area.

At its first meeting held on September 8th, 1987 the Chairman, Councillor O'Shaughnessy, indicated to the Councillors and the Administration present, that the mandate of the Committee should go beyond the four suggestions of Councillor Wachniak and that the Committee should review the subject of housing to identify areas of concern relating to existing housing programs and any recommended changes. Based on this decision the terms of reference were expanded to include:

- Review of the concerns relating to inspection forces and by-law enforcement, which were the subject of a review by the Ad Hoc Committee on City Inspection forces. These could still be studied and the Committee could re-iterate, support, and add to the recommendations of the Ad Hoc Committee on City Inspection forces.

- Review the City's long term commitment to housing and neighbourhood revitalization programs in order to determine whether a permanent Department of Housing with adequate inspection staff and administration is needed to address and deal with maintaining the stability of older city neighbourhoods.

- Review the Public Health Act requirements relating to the standards for housing maintenance, and the existing housing by-laws such as the Minimum Standard of Housing Repair By-law No. 19165, the Untidy and Unsightly Premises By-law No. 762/74 and the Maintenance and Occupancy By-law No. 763/74 with a view to closing the loopholes which are used to avoid compliance and/or prosecution.

- Review procedures of the By-law Court System relating to housing by-law infractions in order to identify problems.

- Review sections of the City of Winnipeg Act which pertains to Housing and Neighbourhood Improvement viz. Section 448 which pertains to the Health Department; Sections 638 and 639.1 which pertains to Housing and Social Development and Sections 640 to 652 which relates to the Maintenance and Occupancy By-law.

- Address the lack of housing and/or alternate housing for people at risk, multi problem families and the homeless.

An the initial meeting of the Ad Hoc Committee, it was decided that the committee would receive reports from each of the Departments of Environmental Planning, Health and Social Services outlining problems encountered in the delivery of housing programs, by-law enforcement, compliance to codes, prosecutions, etc. and recommending solutions to rectify these problem areas. The Law Department was asked to review the recommended changes as they pertained to the City of Winnipeg Act and existing City policies. These reports were discussed at regular meetings of the Committee and the pertinent solutions to the problems identified are included as a list of recommendations from this Committee.

REVIEW OF CITY'S LONG TERM COMMITMENT TO HOUSING AND NEIGHBOURHOOD IMPROVEMENT

A number of discussion papers were received from the Community Programs Division of the Department of Environmental Planning which reflect the City's commitment to housing and neighbourhood revitalization. They included The mandate and policies for Housing and Community Development, Issues and Recommendations for Housing and Neighbourhood Improvement, Recommended changes to the City of Winnipeg Act under sections 638 and 639.1, Issues and concerns in the delivery of the Core Area Residential Upgrading and Maintenance Program, and the Relationship between the Goals and Programs of the City in Housing and Neighbourhood Improvement and those of the Winnipeg Housing Rehabilitation Corporation. These papers are included as part of the Appendix.

The Community Programs Division papers pointed out that Housing and Neighbourhood Development mandate is identified under sections 638 and 639 of the City of Winnipeg Act, entitled "Housing and Social Development". Mandate under these sections include:

- acquisition and erection of dwellings for sale or rent as well as the acquisition and disposal of lands.

- enactment of by-laws by Council with respect to the establishment of programs for the rehabilitation, improvement or renewal of urban areas and securing improvement in social conditions with a view to preventing poverty, illness and crime and for the provision of human development programs for mental health, social services and development of day care nurseries.

- establishment of neighbourhood improvement areas by Community Committee recommendation and endorsement by Council.

- establishment of the contents of a neighbourhood improvement plan.

- provision of relocation assistance for persons displaced from residential accommodation or business premises in the area as a result of the implementation of the plan.

- establishment of an advisory service on rehabilitation of dwellings and business premises in the neighbourhood improvement area.

- acquisition of land, building or structure to implement the plan or for rehabilitation for lease or sale.

- provision in the plan for a programme of grants and loans by the City according to the conditions as set by Council.

A number of revisions to these sections were presented to the Committee by the Community Improvement Division. They were assessed by the Law Department and the approved revisions are included as part of the recommendations for this section of the report.

In addition to mandate as established in the Housing and Social Development section of the City of Winnipeg Act, City Council has established a number of policies for improvement of older neighbourhoods which are embodied in Plan Winnipeg and which represent a strong civic commitment towards neighbourhood revitalization. The fundamental objectives are:

- To sustain and enhance the living environment of older residential neighbourhoods through the development of a housing and community development strategy.
- To allocate public support to older neighbourhoods according to the severity of physical, social and economic needs by:
  - direct involvement in the rehabilitation and improvement of older residential neighbourhoods on priority based on need;
  - supporting the principle of comprehensive social, economic and physical neighbourhood programming in severely deteriorated neighbourhoods; and
  - maintaining a high quality of service and amenity in areas exhibiting signs of deterioration.
- To sustain and improve residential, commercial and industrial development in older neighbourhoods by encouraging private sector investment.
- To encourage other levels of government to help sustain and enhance older residential neighbourhoods and the viability of the central city as a community, by soliciting the support of the Federal and Provincial Governments and the local educational authorities in the maintenance and revitalization of older residential neighbourhoods.

The paper also pointed out that the Community Programs Division is involved in a number of activities which reflect this mandate and policies. They include:

Neighbourhood Development - the development of programs within older neighbourhoods. This involves the establishment of local offices and the development of improvement plans. Based upon planning and resident input, funding allocations are made to specific projects. Neighbourhood Development Programs are currently sponsored by the Core Area Initiative and the Manitoba/Winnipeg Community Revitalization Program.

Social Development - currently, involvement is with two specific social programs funded by the Core Area Initiative. The Core Area Residential Upgrading and Maintenance Program (C.A.R.U.M.P.) places Housing Inspectors and Social Service staff onto delivery teams for socially - responsive housing by-law enforcement. The Neighbourhood Service Resource Development Program provides funding to organizations to undertake community service programming in designated areas north and south of the C.P.R. tracks.

Housing - housing activity takes several forms. The major activity is the delivery of the R.R.A.P. Program. This accommodates the rehabilitation of some 1200 dwelling units annually. Support is also provided to non-profit groups through Core Area Funding and acquisition of land for housing development through various neighbourhood programs. Concentrated by-law enforcement occurs through C.A.R.U.M.P. on a target-area basis. The Division also sits on an intergovernmental housing committee to monitor ongoing programs and to identify new initiatives. This association has been ongoing since 1973. Winnipeg has been able to take advantage of senior government programs by understanding how to use and shape the programs of other governments.

Urban Design - the urban design group has related to projects of wide description. Parks, day-cares, senior facilities, group homes and housing development exemplify the range of design activity.

The Neighbourhood Improvement Division has been associated with programming in the order of $150,000,000.00 since 1973, when work began with an initial City allocation of $100,000.00. This funding was advanced in order to seek cost-sharing. Of the $150,000,000.00 the City has provided $28 million.

Discussion centered on the fact that while much has been done, much remains to be done.

Areas once improved in the past, require revisiting with minimal injections of support to maintain stability.

- Some areas require ongoing programming while others require specialized programs.

- the housing by-law enforcement process remains a problem

- housing inspection services are fragmented

- the Community Programs Division relationship to any committee on Council ranges from tenuous to non-existent though Council has strongly supported neighbourhood improvement

- the Community Programs Division remains an anomaly within the Department of Environmental Planning and is primarily dependant on cost-shared programs with its major source of administrative funding being the Capital Budget of the City. In the absence of senior governmental cost-shared programs it would cease to be.

It was recommended to the Committee that the Community Programs Division be provided with some ongoing status to ensure a continuous focus on older city areas. This would maintain an establishment formulated to respond exclusively to the needs of such areas.

Also recommended for the Committee consideration were:

The Creation of a Housing Resource Unit to Ensure

- Ongoing home-repair programming
- Maintenance and Occupancy By-law enforcement
- The establishment of a Home Maintenance Advisory and Information Service
- Support to non-profit housing associations (eg. land-assembly through neighbourhood programs)
- Promotion of provincial involvement in enhancing RRAP (eg. subsidize the CMHC interest rate)
- Promotion of National Municipal dialogue on home-repair.

Maintenance of Neighbourhood Improvement Programming including:

- Delivery of the Manitoba/Winnipeg Community Revitalization Program on a target area basis.
- Neighbourhood maintenance efforts in areas which have already received neighbourhood improvement programming.
- Redefinition of the program components of neighbourhood improvement to include business improvement and community service effort.
- Exploration of the existing concepts, resources and funding for Community Economic Development.
- Lobbying the Federal Authority to re-instate tri-lateral cost-shared neighbourhood improvement.

Establishment of an Adequate Housing and Neighbourhood Research Capability related to:

- Neighbourhood needs analysis and characterization
- Inventory of services
- Coordination of Civic capital and five-year expenditures in older neighbourhoods
- Program monitoring and evaluation
- Identification and analysis of market and public housing development
- Exchanging ideas with other cities and in particular establishing political/administration linkages to Minneapolis, St. Paul.

Formation of an Inter-Departmental Committee on Neighbourhood Improvement, comprised of representatives of the following departments:

- Environmental Planning
- Social Services
- Health
- Parks and Recreation
- Police

The Committee strongly recommends that:

The City should not only continue but strengthen its commitment to housing programs and the revitalization of older City neighbourhoods and that a reorganizational study of the Department of Environmental Planning be conducted and that such a study should include but not be limited to:

- *The feasibility of establishing a separate Housing and Community Programs Department, utilizing the staff of the Community Programs Division of the Department of Environmental Planning, with a Director who will be responsible for reporting to the Committee on Planning and Community Services, with its own budget included each year as part of the City's current and capital estimates in order that such a department would not always be dependent on cost-shared funding programs for its existence.*

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(f) the establishment of an advisory service to advise and assist owners in carrying out the required rehabilitation of their dwellings or business premises in the area; (moved from S.639.1 (b))
(g) the establishment and implementation of a housing program for the area including housing restoration, construction, non-profit and cooperative housing;
(h) the establishment and implementation of a social development program for the area;
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- *Social Services Department*
- *Health Department*
- *Parks and Recreation Department*
- *Police Department*
- *Operations Department*

That the program components of Neighbourhood Improvement be redefined to include business improvement and community service efforts. And that a review of the Province's Business Improvement Zone Legislation be undertaken with a view to applying the legislation to applicable areas in Winnipeg.

That the Community Programs Division of the Department of Environmental Planning be entrusted to promote a national and international municipal dialogue on housing and community revitalization programs with a view to exchanging ideas with other cities; establishing political/administration linkages; and lobbying senior governments for changes to existing programs or the development new programs to meet defined gaps.

That the Community Programs Division of the Department of Environmental Planning report quarterly to the Committee on Planning and Community Services on its activities and those of the interdepartmental committee on Neighbourhood Improvement. The Committee strongly recommends that:

REVIEW OF COUNCILLOR WACHNIAK'S HOUSING CONCERNS

The Committee first addressed the concerns and recommendations of Councillor Wachniak.

1. That rent on houses with work orders outstanding should go to the provincial Rentalsman's office.

The representatives of the Health and Social Services Departments indicated that the mechanism currently exists to allow the Rentalsman pursuant to the Landlord and Tenant Act, to redirect rent monies for repairs the landlord fails to carry out once notified to do so. However the decision to redirect rent is made by the rentalsman and this is based on the complaint of the tenant. Changes to the Act would be required to allow for third party complaints by the inspection authority.

The Law Department advised caution in proceeding with third party complaints because, under existing legislation, the Department may become identified as a tenant assuming the rights and responsibilities of tenants. This could include tenant damage. It was suggested that, if the Department is to make third party referrals, this should be drafted as a complaint letter to Landlord and Tenant Affairs and signed by the tenant. In effect, the status quo would be maintained.

The administration felt that redirecting rent to the Rentalsman was frequently not a viable alternative to resolve major repair orders as rental revenue may be totally inadequate to meet the costs of extensive and costly repairs which are required. Also, the experience of both departments was that Landlord and Tenant Affairs has traditionally not become involved when orders have been issued by an enforcement/inspections branch and has not indicated a willingness to order rent redirect when landlords are not complying with orders. It was felt that this action has limited success or application. Specifically this method is useful in resolving relatively minor items. Landlord and Tenant Affairs advises that rent redirect is not a viable alternative in resolving major repair orders. At the present time the Social Services Department is involved in redirecting rent on the average of 30 cases a month.

The recommendation of the Committee is

that the City enter into discussions with Landlord and Tenant Affairs to resolve the issue of redirecting rent and to propose possible amendments to the Landlord and Tenant Act.

2. That if a house with a work order against it becomes vacant, no new tenants should be allowed to move in to the house until the work orders are complied with.

The Committee felt that there was merit in this recommendation and asked for comments from the Department of Health and Social Services. The Departments indicated that major amendments to all housing related legislation, including the Manitoba Public Health Act would be required to allow enforcement provisions such as this one. They envisaged that

there may be several impediments to enforcing such a regulation. Firstly, such an amendment may require the registration of a caveat relating to the upgrading orders against the property in the land titles office. This may take weeks to accomplish and removal may also take an equal amount of time. Secondly the City will have to depend on the landlord or tenant to advise the City that the premise is vacated. Thirdly, in practical terms, due to variance in the degree of seriousness of the infraction, the results could mean homelessness for many and result in a backlash against the City. A scale would have to be worked out whereby serious potential risks to health and safety would be required before the landlord would be prevented from renting the premise while the building is being upgraded. Fourthly, enforcement would likely require considerable manpower as the Department of Social Services has indicated that their clients alone account for some 1,500 moves per month.

The Committee recommends that despite the inherent problems related to enforcing such a regulation, that the City of Winnipeg Act be amended to prohibit landlords from renting a unit, which has outstanding orders, if the unit becomes vacant.

3. That tenants who vandalize properties should be liable for criminal prosecution.

Tenants who vandalize properties are already liable for prosecution pursuant to the Landlord and Tenant Act as well as civil action. Generally speaking the problem as it currently exists is that the landlord must pursue alleged tenant damage through the Courts at his own expense knowing that even if successful the judgement may be considerably less than his legal costs, let alone the cost of the damages at issue. Additionally in most cases the tenants do not have the financial resources to pay a judgement, thereby placing a further burden on the correction system and the taxpayer. The destructive tenant usually has no vested interest in the property, and have virtually no accountability in the same sense as would tenants with assets and employment would have, when subject to penalties through the courts.

The Law Department provided the Committee with several extracts from the Criminal Code relating to the destruction or damage to property the Department pointed out that while the Code in theory creates an offence for such actions as well as a mechanism for providing compensation, it must be noted that in order to obtain a conviction a witness would have to be available who could swear that a particular person caused the property damage (as opposed to a guest or family member). Additionally, the Attorney General's Department might not be particularly interested in proceedings with large numbers of charges involving a landlord and tenant relationship as the situation could well be viewed as a private matter.

The Committee felt that the City should develop a Housing Clinic such as the Pittsburgh or Baltimore models because it was recognized that many of the Code violators do not respond appropriately to the threat of punishment but rather, require understanding, educating, and assistance. Many of the offenders have difficulty coping with their responsibilities and need counselling, instructions and someone to help co-ordinate all of

the necessary factors for abatement of their violations. Tenants may be required to attend training courses rather than pay fines. The clinic could provide greater tenant support services in order to deal with the social problems of the client group. Through the clinic, tenants can also be educated about their rights as well as about existing housing and rent control legislation. Newcomers to the City can be made to understand its cultural patterns and legal requirements and can be educated about city services and resources. Fundamental means of dealing with daily living problems of health, home management and personal economics involved in urban living can be taught.

The Committee also felt that a neighbourhood resource centre with all the agencies involved in housing and social services, located right within the residential problem areas, can have a great impact in addressing the housing, social, health and recreational needs of the people of the area.

The Committee is of the opinion that the Core Area Residential Upgrading and Maintenance program has the resources and is providing some support relating to families in rental housing in the area of Child Care and housing problems. Social Workers and Home Support Teachers relate to the families, while the inspectors relate to the building. This program has also produced a Tenant's Handbook in which there is information relating to tenants and landlords responsibilities.

The Committee recommends that:

- *That the Core Area Residential Upgrading and Maintenance Program (CARUMP) be continued on a long term basis and that the City's Official delegation should discuss ongoing CARUMP funding with the Province of Manitoba as an essential component of housing stock maintenance.*

- *That the City investigate the development and operation of a Housing Clinic along the lines of the Baltimore or Pittsburgh model with a view to establishing the same in the City of Winnipeg.*

4. <u>That the City and the Province should develop a home ownership program to help tenants become property owners.</u>

The Committee is of the opinion that the Winnipeg Housing Rehabilitation Corporation has a developed expertise to accomplish this goal. Its objectives are:

- to increase the supply of clean, safe efficient housing in the inner city for individuals and families with low or modest incomes.
- to upgrade the existing housing stock by adding to the lifespan of older residential buildings in the inner city through substantial renovations.
- to help stabilize inner city neighbourhoods through improvement to housing stock.

The Community Programs Division of the Department of Environmental Planning is the municipal delivery agent for neighbourhood improvement and housing programs in older city neighbourhoods. However the Division is limited in its efforts to deliver housing in older neighbourhoods by legislation and program constraints. To fill this gap the Division requires access to additional resources.

The Committee recommends that:

- *a more formalized liaison be created between the Community Programs Division and Winnipeg Housing Rehabilitation Corporation (WHRC) and that this should include representation from the Community Programs Division on the Board of WHRC.*
- *the City of Winnipeg should demonstrate its commitment to improving housing conditions in older neighbourhoods by disposing of its own stock of one and two family dwellings through the process of selling them to WHRC at a price that makes it economically viable for WHRC and to rehabilitate them and sell them back to the public at Market prices.*
- *the Province and the city should address the question of undeveloped Provincially and City owned land within the inner city, particularly for the private development of low-cost housing for which the supply is limited and that a land disposal policy be developed whereby the land subsidy is transferred to the new owners.*
- *the Provincial Infill Housing Program should be continued with special emphasis in Community Revitalization Areas.*
- *the Province and the City should continue to support non-profit and co-op groups by assisting with subsidies to meet the differential between allowable maximum unit costs for land and actual cost for cleared land.*
- *the City and the Province provide financial and technical support to non-profit groups that are providing housing for native families and individuals.*
- *a By-law be enacted which provides for the control of demolition of good residential properties by owners wishing to rezone residential lands, the rezoning of which may harm the residential character of the neighbourhood.*

BY-LAW ENFORCEMENT AND PROCEDURES

The Ad Hoc Committee requested and received recommendations for By-law Enforcement and procedural improvements from the Health Department, the Social Services Department and the Community Programs Division. Amendments to the City of Winnipeg Act were referred to the Law Department for comment. The recommendations, the legal opinion and a draft revision to the By-laws are appended to this report.

A Housing Court

The Committee heard a number of concerns regarding By-law Court. Representatives indicated that:

- the present By-law Court in which housing related matters are heard only sits once a week and is overloaded with a plethora of cases relating to all by-law infractions rather than only those related to the Maintenance and Occupancy By-law or Public Health Act.
- the prosecution process which is now followed is extremely lengthy. Trial dates are often set forward six to eight months resulting in large backlogs. During this time period, the landlord usually allows the building to remain in violation of the By-law and to deteriorate even further.
- in order to avoid prosecution owners often sell their buildings, thereby requiring reissuance of the order to the new owners.
- the common practice between the Solicitor and the Magistrate is to grant an individual three remands which lengthens the process to resolve any given infractions even further
- the By-law Court is perceived as a training ground for junior solicitors who do not have the expertise or basic knowledge of the legislation under which the City operates.
- the fines are not large enough to act as a deterrent, as they have no relationship to the cost of the repairs ordered.
- the courtroom setting is not a serious court environment, as proceedings are carried out in a meeting room and often the magistrate wears a business suit instead of judicial robes.
- there is no court reporter and property owners have an automatic right to appeal as there is no written transcript of the trial.
- in general, By-law Court has a very low priority in the Judicial system.

The Committee strongly recommends that the City of Winnipeg improve its commitment to eliminating sub standard housing by making the following changes to the By-law Enforcement procedure:

- *A separate Housing Court be established by the Provincial Government, with a proper courtroom atmosphere, to hear and deal with housing related matters. This court must be given statutory recognition and permanent status by making it a part of the municipal court system.*

- *The Attorney General be requested to replace the current practice of providing a rotation of junior prosecutors, by providing a permanent fully experienced prosecutor and a permanent judge to the Housing Court. This will result in a hastening of the judicial process related to housing matters.*

- *The Attorney General be requested to provide a court reporter for the Housing Court.*

The Committee felt that the advantages of such a Housing Court would be

- the magistrate would soon become an expert on the housing by-laws and would learn the special problems of the inspector and the offender.
- defendants, as they hear other cases will recognize the gravity of their infractions and as the newspapers publicize these cases, citizens will become aware of their responsibilities.

- The specialized Housing Court will result in the speeding up of cases coming before the court.

- The Housing Magistrate will quickly learn who are the chronic offenders and who are the struggling owners and tenants. The slum landlords will quickly become obvious.

- The inspection system itself will be encouraged by prompt justice and attention and will be aware of the support the court is lending to the cause.

AMENDMENTS TO THE CITY OF WINNIPEG ACT AND THE MANITOBA PUBLIC HEALTH ACT

The Law Department reviewed a number of amendments to the City of Winnipeg Act, as proposed by the Health and Environmental Planning Department and redrafted sections of the Act to include those proposals, which in the opinion of the Law Department, were feasible and would enhance the process of by-law enforcement. The amendments from the Health Department with which the Law Department concurred include:

- Subsection 448(1)

  (a) external application of notices by the Medical Health Officer to the City By-laws

  (b) include a new provision to allow notices to be registered against titles to land.

- Subsection 448(9)

  - replace provision for Application for Order of Substitutional Service with Authority to post notices upon property affected.

The Committee recommends that City of Winnipeg Council propose to the Provincial Government the following draft changes to section 448 of the City of Winnipeg Act.

AMEND SUBSECTION 448(1) TO PROVIDE AS FOLLOWS

Unsanitary buildings or terraces.

448 (1) If the health officer, upon due examination, is satisfied that a building, terrace, or land does not comply with the provisions of the Public Health Act or the regulations passed thereunder, or any by-law of the city, he may issue a notice addressed to the owner of the premises or terrace or the agent or person in charge thereof

(a) requiring the premises or terrace to be put into a condition that will comply with that Act and the regulations thereunder, or the by-law, to the satisfaction of the health officer; or

(b) if the premises or terrace are unsanitary or out of repair to such a degree as to be unfit for human habitation, requiring the premises or terrace to be put into a condition that will comply with that Act and the regulations thereunder to the satisfaction of the health officer, or requiring the occupants to vacate the premises or terrace within such time as the health officer may deem reasonable.

SUBSECTION 448 (9) SHOULD BE REPEALED AND THE FOLLOWING SUBSTITUTED:

448 (9) A notice issued under subsection (1) or (7) may be personally served upon the owner of the building, terrace or land, or the agent or person in charge thereof, or may be sent by registered mail to the last known address of such person as shown on the latest revised assessment roll of the City or be the records of the land titles office.

448 (10) Where the health officer is unable to effect service of a notice issued under subsection (1) or (7), he may cause the notice to be affixed in a conspicuous place on the building, terrace or land and the affixing of such notice shall be deemed to be sufficient service of the notice upon the owner of the building, terrace or land, or the agent or person in charge thereof.

448 (11) The health officer may register a notice issued under subsection (1) or (7) in the land titles office together with a form approved by the District registrar containing the legal description of the land upon which the building or terrace is located, or of the land affected, and upon such registration the district registrar shall make an entry of the registration in the abstract of title under their old system or on the title under the new system, as the case may require.

448 (12) Any person acquiring any subsequent interest in land affected by a registration made under subsection (11) shall be deemed to have been served with the notice on the day on which the notice was registered and any subsequent transfer of the land shall be subject to such registration.

448 (13) Where a notice registered under subsection (11) has been complied with to the satisfaction of the health officer, the health officer shall forthwith register in the land titles office a certificate which shall operate as a discharge of the notice.

SUBSECTION 448 (10) SHOULD BE RENUMBERED AS SUBSECTION 448 (14)

Amendments requested by the Department of Environmental Planning related to sections 640 to 652 - Minimum Standards of Maintenance and Occupancy. The suggested amendments which were endorsed by this Committee have been incorporated in a revision to the Minimum Standards of Maintenance and Occupancy By-law. They are included as part of the Law Department report which forms part of the Appendix.

The Health Department also brought before this Committee amendments to the Manitoba Public Health Act relating to powers of entry, increased maximum fines, and the issuance of Bench Orders requiring compliance. These were reviewed by the Law Department and your Committee recommends the following changes to the Public Health Act.

1) *Amend paragraph 19(d) of the Public Health Act by changing the work "unoccupied" to "occupied".*

2) *Amend the General Penalty section 39(1) of the Public Health Act to increase the maximum penalties to become $5,000.00 for and individual and $50,000.00 for a corporation.*

3) *Amend the Public Health Act to confer jurisdiction upon the Court to issue Bench Orders requiring compliance. This could be a new section numbered 39(1.1) and should read as follows -*

> *"A judge or magistrate imposing a penalty under this section may, in addition to imposing a penalty, order the convicted person to comply with the relevant provision, order or direction."*

The disparity between the health inspection in the inner city as compared to the suburbs was an area of concern to the Committee. The City of Winnipeg government has no control over Provincial inspections personnel, programming, rblic or service delivery outside the inner city. This current split jurisdiction is inefficient and confusing to the general public. The two respective inspection agencies have different priorities in programming and two different service levels as the Provincial inspectors do not inspect various licensed premises for the City License Department. Inspections in the suburbs, in many instances are conducted only on a complaint basis.

This Committee recommends that:

- *The City of Winnipeg Health Department Inspections have its jurisdiction extended to the City at large, retain its existing mandate, programs, and frequency of inspections and take over all such inspection activity in the suburbs currently within the jurisdiction of the Province of Manitoba, Department of Environment, Workplace Safety and Health, Environmental Control Services and Inspection Services.*

- *In order to function more efficiently the City of Winnipeg Health Department receive the necessary resources to acquire all necessary equipment to implement, within the Inspections Branch the Hand Held Computerized Inspection Program and Automated Record System for application city wide.*